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exciting this interest, than that exciting, it should not gratify it: for after all, we are afraid to recommend the book itself to indiscriminate perusal. Some parts are dull and some offensive; and the whole of it requires more geographical knowledge to be read understandingly, than can be supposed to be in the possession of general readers. For notwithstanding what we have said of the elevated character of the novel writing of the present day, we presume no one ever reads a novel with a map. Without a very good map, Anastasius will be unintelligible.

We ought, before quitting the work, to praise the freedom from ostentation, with which this great mass of information is brought together. A few notes, scarce any of them more than two or three lines long, contain the *materiel*, from which an accomplished book-maker might easily have spun an octavo. We are unable to extend this commendation to the orthography made use of in writing the proper names, a matter of no small moment in a work containing so many. If the principle followed, as one would sometimes think, be to spell them in such a manner as best to convey their oriental pronunciation to an English eye, we are wholly unable to conceive why, by turns, the peculiar orthography of almost every modern nation of Europe is admitted; why we should have Sotiri, Tshawooshes, Kehaya, Reïs, Capoose, Yaoor, &c. none of which express the Greek or Turkish pronunciation to an English reader.

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**ART. XV.**—*Speeches of the Governors of Massachusetts, from 1765 to 1775, and the Answers of the House of Representatives to the same; with their resolutions and addresses for that period. And other public papers relating to the dispute between this country and Great Britain, which led to the Independence of the United States.* Boston, Russell & Gardner, 8vo, pp. 424. 1818.

**THERE** are few works calculated to let the reader so fully, and at the same time so agreeably, into the real character of the controversy, which led to our revolutionary war, as the work before us; and no one which ever gave us so high an opinion of the men by whom that dispute was managed. It is not enough for us to know what battles were fought in the

war of independence, with the numbers who died, and the gallant achievements which were performed in those battles. All this will not have taught us the real history of the revolution, of the great moral and political change which took place in the people. We shall still have to learn how it was, that the ardent loyalty, for which this people were once remarkable, and which had become almost a part of their nature, was defaced and obliterated; and how it was that a number of small provinces, who had always been in the habit of viewing themselves as weak and dependent, were wrought up to such a pitch of resolution, as to dare so unequal a contest, and to persevere in it as they did. It is from books like the one before us, that this knowledge is to be gained.

It is however to be recollected, in reading this book, that the controversy between the colonies and the parent state was managed more by the people than by the legislatures. At least this was the case in New England. Yet in saying this we by no means intend to intimate that the legislatures ever shrunk from any responsibility which it was their duty to assume. The volume before us would amply refute such an intimation. Their caution, though great, was not superfluous; on the contrary, their general course of conduct was throughout such as, to us at the present day it seems it ought to have been. In two instances, at least, it would probably have been in the power of the legislature of Massachusetts to have roused the people to open resistance; we mean upon the occasions of the Stamp Act and of what has usually been called the Boston Massacre. It is well that they did not; it is well that they interposed by their example to allay the popular ferment, and to discountenance whatever might have the appearance of a mob-like fury. If they had acted differently, their resistance, instead of being the commencement of a great and honorable revolution, would have been merely the rebellion of a single province; and the men who have since found themselves guiding the affairs of a powerful nation, might have stained the scaffold with their blood. It is not however our present intention to trace the progress of the principles of the revolution, nor even (although our remarks will necessarily assume somewhat of an historical form) to give a history of Massachusetts for the period to which these documents relate. We shall endeavour to give such an account of the contents of the work before us, as will enable our readers to form an idea of

the character of the book itself ; and of the manner in which the controversy, to which it relates, was conducted on the part of the legislature ; though from the great number of topics to which we shall have to allude in a short space, it is not improbable that our remarks may seem thrown together without sufficient connexion.

This collection commences with the speech of Governor Bernard at the opening of the session of the legislature in October 1764. It is very surprising that it did not rather begin with the session immediately preceding. We have upon a former occasion\* given an account of that session, to which we refer our readers. At present we have only to state that in March 1764, resolutions for imposing taxes and duties on the colonies had passed the British House of Commons. On the last Wednesday of the May following, the legislature of Massachusetts Bay assembled, and their attention was soon directed to the consideration of the Act of Parliament, ‘for granting certain duties in America,’ which had passed in conformity with the beforementioned resolutions, and to the Stamp Act, with which they were threatened, but which had not yet passed. They directed a treatise, written by one of the members, James Otis, on the rights of the British colonies in general, and of this province in particular, to be sent to their agent in London, accompanied by a letter of instructions, which contained an animated declaration of their rights, and in which, amongst other expressions equally strong, they say that the power of levying their own taxes ‘is the grand barrier of British liberty, which if once broken down, all is lost.’ Besides this, a committee was appointed ‘to acquaint the other governments with the instructions sent to their agent’—‘and in the name and on the behalf of the House to desire the several assemblies on this continent to join with them in the same measures.’ This last measure was one of much importance, for it was the first attempt made to unite the colonies in opposition to Parliament. In the article before alluded to, we have given a pretty full account of these instructions, and we repeat thus much of what we then said, only that we may express our astonishment and regret, that the documents of that session of the legislature were not inserted in this volume. If there were any propriety in

\* Review of *Novanglus and Massachusettensis*, vol. ix. p. 387.

attributing the revolution to any single legislative act, which we deny there is, these instructions and the mode adopted of promulgating them would be sufficient to refute the assertion, which has been lately made in a highly respectable quarter, that the revolution commenced with the declaration of Virginia, made about a year afterwards, that the attempt to vest the power of laying taxes upon the province in any person or persons, other than the general assembly, 'had a manifest tendency to destroy British as well as American freedom.'

The day after the House had finished the business of the instructions, the Governor prorogued them to the 25th of July. It was not however his intention that they should then meet, for he dreaded the spirit they had discovered at their last session, and which he knew to be but a representation of the feelings of the people. He accordingly prorogued them by three several proclamations until the 18th of October, when finding the public clamor too loud to be longer resisted, he permitted them to convene.

This volume, we have before said, begins with his speech at the opening of this session. The House immediately prepared an address to the King, which was sent to the Council for concurrence.\* It here encountered a strong opposition from Mr. Hutchinson and his friends. Hutchinson was a man of consummate ability and address, and of great influence. He succeeded in obtaining a committee of conference with the House, of which committee he was himself appointed chairman. Having wearied the committee with an opposition of ten days, and embarrassed the House by the counteracting votes of the Council, he at length succeeded in having a petition to the House of Commons substituted for the address to the King. This petition is given in the volume before us. It solicits the repeal of the obnoxious act of Parliament, principally on the ground of expediency and convenience. A letter of instructions to their agent in London accompanied this petition, in which the legislature say, 'they have been induced thus to petition,' in consequence of a suggestion made by the agent and another gentleman in England, 'that a decent remonstrance might procure some relief.' They add, 'we have endeavoured to avoid giving offence, and have touch-

\* Minot.

ed upon our rights in such a manner, as that no inference can be drawn, that we have given them up on the one hand, nor that we set up in opposition to the Parliament, nor deny that we are bound to the observance of the acts of Parliament, on the other. But in a letter to you, we may be more explicit on this point—a right, the people of the colonies have undoubtedly by charter and commissions to tax themselves. So far as the Parliament shall lay taxes on the colonies, so far they will deprive them of this right. If the first settlers of the colonies had not imagined that they were as secure of the enjoyment of this right, as of their titles to their lands, in all probability they would never have left England, and no one colony could have been settled.’ (p. 24) The tone of this petition, so different from the spirited instructions of the last session, gave great disgust to the people. But notwithstanding this, and the manner in which the House was drawn into the measure, yet as we have formerly intimated, it may be doubted at the present day, if it were not the wisest course which, under all circumstances, could have been adopted.

At the next session (in January 1765) nothing important appears to have been done. The legislature, although they had given offence to their constituents by their conciliatory course at the last session, could not now retract; and they appear, from their answer to the Governor’s speech, determined to wait until they had learned the effect of their petition. Before however the new legislature assembled, which happened on the 30th of May following, the news of the passing of the Stamp Act had arrived. The triumph of those who condemned the mild petition of the last legislature, and the mortification of those who had been induced by Hutchinson to believe that language, such as was then used, and such alone, would be attended to, were complete. In his speech at the opening of the session, the governor appears anxious to avoid the subject of the Stamp Act, the subject which was uppermost in every man’s mind; and talks about pot ash, and lumber, and hemp, which, he tells the legislature, ‘are proper objects of their concern;’ and in the conclusion cautiously reminds them of the supremacy of Parliament. The House, however, without waiting to answer the governor’s speech, ‘taking into consideration the many difficulties to which the colonies are and must be reduced by the operation of some late acts of Parliament,’ appointed ‘a committee to consider what meas-

ures had best be taken, and make report.' There were wanting no declarations of the rights of the province, for time and again had the principle been asserted, that the province had the exclusive right of assessing their own taxes ; no resolutions were necessary to rouse the minds of the people, for these were already inflamed ; and as to petitions, they had found by recent experience how little attention was paid to them, at least when proceeding from a single province, though couched in the most conciliatory and respectful language. The Committee reported :

'That it is highly expedient there should be a meeting as soon as may be, of committees from the Houses of Representatives or Burgesses in the several colonies on this continent, to consult together on the present circumstances of the colonies, and the difficulties to which they are and must be reduced by the operation of the late acts of Parliament for levying duties and taxes on the colonies, and to consider of a general and humble address to his Majesty and the Parliament to implore relief.' p. 35.

It was proposed that this convention should meet at New York on the first Tuesday of October then following. This report was immediately accepted ; and James Otis, Col. Partridge of Hatfield, and Timothy Ruggles were elected delegates from Massachusetts Bay. The Congress assembled at the time and place appointed. Delegates from nine provinces were present. In the first place they prepared a general declaration of the rights and grievances of the colonies. In it they assert that the colonists are entitled to all the rights and liberties of natural born British subjects ; that it is one of these rights, and essential to the freedom of a people, that no taxes be imposed on them, but with their own consent, given personally or by their representatives : that from local circumstances they cannot be represented in the House of Commons of Great Britain : and that no taxes ever have been or can be constitutionally imposed upon them, but by their respective legislatures. They likewise declare that the obnoxious acts of Parliament have a manifest tendency to subvert the rights and liberties of the colonies. In addition to this they addressed petitions to the King and to each House of Parliament. The petition to the King is inserted in the volume before us. It is written with ability and dignity. We do not know that the editor was bound by the nature of his

undertaking to give us any of the documents of this Congress ; but as he has seen fit to favour us with one, and only one of them, we should have supposed the declaration of rights would have had the preference, as being the most important. It was no small point gained in the progress of the principles of opposition, that so many colonies had been brought together to discuss their common rights, and compare their feelings and opinions. It was so viewed in England, and was made the subject of a special representation to the King from the Lords Commissioners of trade. We have given extracts from this representation in the article to which we just now referred our readers.

In August the riots took place in Boston, in consequence of which the governor convened the legislature in September. His speech to the two Houses begins :

‘I have called you together at this unusual time in pursuance of the unanimous advice of a very full council, that you may take into consideration the present state of the province, and determine what is to be done at this difficult and dangerous conjuncture. I need not recount to you the violences that have been committed in this town, nor the declarations that have been made that the act of Parliament for granting stamp duties in the British colonies shall not be executed within this province. The ordinary executive authority is much too weak to contradict such declarations, or oppose the force by which they are supported. It has therefore been found necessary to call the whole legislative power in aid of the executive government. From this time this arduous business will be put into your hands, and it will become a provincial concern.’ p. 39.

And as he ‘desires not to dictate, and would avoid the appearance of doing it,’ he says :

‘I shall resolve what I have to recommend to your consideration into mere questions, and avoid assertions of my own in matters which are doubtful.’

He proceeds to warn them in this manner of the consequences of refusing to execute the Stamp Act, and desires them particularly to consider what effects the stopping of two kinds of offices only, the Courts of Justice and the Custom Houses, will have upon the generality of the people. In conclusion he recommends to them to make compensation to the sufferers by the late riots, telling them it will be better for them to do it ‘of their own accord, before any requisition is made to them.’



We have room only for the following extracts from the answer of the House.

—‘ We beg that your Excellency would consider the people of this province as having the strongest affection for his Majesty, under whose happy government they have felt all the blessings of liberty. They have a warm sense of the honour, freedom, and independence of the subjects of a patriot king; they have a just value for those inestimable rights which are derived to all men from nature, and are happily interwoven in the British constitution. They should esteem it sacrilege for them ever to give them up; and rather than lose them, they would willingly part with every thing else. We deeply regret it, that the Parliament has seen fit to pass such an act as the Stamp Act; we flatter ourselves that the hardships of it will shortly appear to them in such a point of light, as shall induce them in their wisdom to repeal it. In the mean time we must beg your Excellency to excuse us from doing any thing to assist in the execution of it. Were we, in order to avoid assertions, to resolve what we have to say on this head into mere questions, we should with all humility ask, whether it would be possible for us to add any weight to an act of that most august body, the Parliament? Whether it would not be construed as arrogance and presumption in us to attempt it? Whether your excellency can reasonably expect that the House of Representatives should be active in bringing a grievous burden upon their constituents? Such a conduct would be to oppose the sentiments of the people whom we represent, and the declared instruction of most of them. They complain that some of the most essential rights of Magna Charta, to which as British subjects they have an undoubted claim, are injured by it; that it wholly cancels the very conditions, upon which our ancestors settled this country, and enlarged his Majesty’s dominions, with much toil and blood, and at their sole expense; that it is totally subversive of the happiest frame of subordinate civil government expressed in our charter, which amply secures to the crown our allegiance, to the nation our connexion, and to ourselves the indefeasible rights of Britons.’ p. 46.

They expressed their disapprobation of the late riots; but declined making compensation to the sufferers; alleging that such compensation might have a tendency to encourage such outrages in time to come, and that they could see no more reason why, in this case rather than in any other, the crime of a few individuals should be chargeable on the whole community.

On the second day of the session, the governor sent a message to the two houses informing them of the arrival of a ship with stamped papers on board for the use of this province, and the neighbouring provinces of New Hampshire and Rhode Island. Mr. Oliver, who had been appointed distributor of the stamps, had declined the office; probably much against his inclination; but such was the popular excitement, that no man would have dared to accept so odious an office. The governor therefore applies, in this message, for the advice and assistance of the legislature, in order to preserve the stamped paper. The two houses returned a very short answer, merely expressing their hope, that his Excellency would excuse them if they could not see their way clear, to give him any advice or assistance in the case.

At this session the house likewise passed a series of resolutions, declaratory of their rights and grievances, in one of which they say—‘that all acts made by any power whatever other than the general assembly of this province, imposing taxes on the inhabitants, are infringements of our inherent and unalienable rights as men and British subjects, and render void the most valuable declarations of our character.’ (p. 51.)

The legislature had been convened, as we before stated, for the purpose of curbing and restraining the discontent of the people under the Stamp Act. From the account we have given of their proceedings, it will seem that almost any other effect was likely to result from their continuing together. About the first of November the governor dissolved them, and in doing so delivered a speech in which he complains much of the injustice which has been done him as an individual. ‘What,’ he asks, ‘have I done to deserve this?’ He tells them, ‘it is his misfortune to be the governor of the province at the time, when parliament have seen fit to tax the colonies; and this imposed upon him a necessary duty. This is his offence; but really it is the offence of his office; and against that and not against his person should the public resentment be directed.’ Governor Bernard was a man of talents of a certain kind; but he was hardly equal to the delicate and difficult situation in which he was placed. He came to the government of Massachusetts with the most flattering prospects of a peaceful and popular administration, and in ordinary times these prospects would probably have

been realized. But by birth an Englishman, and in his political principles attached to the prerogative, it is not surprising that his sense of duty frequently suggested conduct in itself sufficiently obnoxious; and Bernard had none of the skill which enables some men to perform unpleasant duties, and at the same time to screen themselves from much personal odium. He soon became unpopular, and the loss of his popularity seems sensibly to have affected him. He discovers great solicitude to have it thought that he performed what appeared to him his duty and no more than his duty, and manifests some surprise and not a little ill temper that his motives were not always appreciated, nor due allowances made for the difficulties of his situation. We certainly think that these allowances were not made—at the present time we may perhaps be permitted to say this. But then for a man to lose his equanimity because the opposite party, in forming its opinion of his conduct, does not take into consideration all the circumstances under which he acted, is pretty good proof that he is not calculated for the turbulent scenes of politics. To add to the vexations of Bernard's situation, he had to contend with men who were far his superiors in talents; a fact of which neither he nor they appear to have been unconscious. We see no proof of Bernard's having acted otherwise than conscientiously; and as far as his general conduct is known to us, we can account for it upon other grounds. We can easily believe too, though we know nothing of the fact, that Bernard was an amiable man in private life, notwithstanding the irritation and wish to criminate his opponents, discovered in his controversies with the house. In short he was placed in a situation to which he was not equal; and was in constant collision with men who could at any time lash him into petulance, and then take advantage of his attempts to retaliate.

As the assembly was prorogued immediately after the delivery of the speech we have mentioned above, no answer could then be returned to it. This, however, was a duty the house were not likely to neglect; and accordingly one of the first things they did, at the ensuing session in January, was to choose a committee for this purpose, of which James Otis was chairman. We have room only for the following extract from this admirable answer.

‘Your Excellency’s manner of expression, in another part of your speech, fully shows that you have in some measure altered, or at least suspended your opinion of the people of this province in point of their loyalty; in speaking of which you make use of the time past and future, without mentioning the present. “No one,” you tell us, “has been louder in proclaiming the loyalty of this people than yourself. You have boasted of it; you have prided yourself in it.” And then you add, “that you trust the time will come when you shall do so again.” Your present sentiments of them you hide in silence, for which a reason seems to be implied in the hopes you express, “that an estimate of this people will not be formed from a review of the present times.” Of the present times, may it please your Excellency, impartial history will record, that the people of this continent, after giving the strongest testimonies of their loyalty to his Majesty, particularly by making their utmost exertions in defending his territories and enlarging his dominion in this part of the world, upon a motion made in this house, gave an equal testimony of a love of liberty and regard to those principles, which are a basis of his Majesty’s government, by a glorious stand, even against an act of Parliament, because they plainly saw, that their essential unalienable right of representation and of trials by jury, the very foundation of the British constitution, was infringed, and even annihilated by it. But that they had knowledge and virtue enough to regulate their opposition to it by the law, and steadily to persevere in such steps as the constitution has prescribed to obtain its repeal; that is by humble, dutiful, and loyal representations to his Majesty and the parliament.” p. 61.

Again.

‘We are glad, however, to find that the difficulty of the times is, in a great measure, removed; and we trust the province will be soon restored to its former tranquillity; your Excellency is pleased to add, “reputation.” The custom houses are now open, and the people are permitted to do their own business. The courts of justice must be open; open immediately, and the law, the great rule of right in every county in the province, executed. The stopping the course of justice is a grievance which this house must inquire into. Justice must be fully administered through the province, by which the shocking effects, which your Excellency apprehended from the people’s non-compliance with the stamp act, will be prevented. Nothing now remains but to support the king’s executive authority in this province, for which there is sufficient provision in the laws; and patiently to wait in hope that the humble, dutiful, and loyal application, jointly made

by the people of the continent for the repeal of the act will be succeeded. And though your Excellency has told us, that you never thought it proper to express your sentiments against the act, we have reason to expect, that as it is "a business in which you have no pretence to interpose," you have never taken any steps to prevent its repeal' pp. 61, 62.

'The Courts of Justice must be open, open immediately.' Just at the close of the last session, the Council had passed a vote, stating that Mr. Oliver had declined the office of distributor of stamps, 'and as that it is not supposed, that any person will think it consistent with his reputation to act in said office;' the judges and all others who are required to make use of stamped papers, are directed to proceed in the execution of their offices, as if the stamp act had not passed. This resolution had been committed in the House, and at the present session another resolution passed the House containing the same order with that of the Council, and likewise a pointed condemnation of the act of shutting up the courts. This was sent to the Council, but was there non-concurred, in consequence, as stated, of their having received assurances from the judges, that at the next term business should proceed as usual.

Thus the attempt to enforce the Stamp Act proved utterly ineffectual. The bales of stamped paper remained unpacked at Castle William; no man being bound to open and distribute them and no one thinking it prudent to act as a volunteer upon the occasion; and the business, in which the paper was to have been used, proceeded 'as if said act had never been passed.' What would have been the result of all this, if the same men had continued in power by whom the Stamp Act was proposed, it is impossible now to determine. Luckily events prevented its being ascertained. The Grenville party, in consequence of circumstances unconnected with the colonies, fell from power, and were succeeded by men more friendly to the colonies, or who had less faith in the practicability of taxing them. The repeal of the Stamp Act diffused the most enthusiastic joy throughout America. It did not, however, in all the provinces, serve to allay the spirit of opposition. In New York, Massachusetts and the other Northern commercial districts, the acts of trade were considered as hardly less obnoxious than the Stamp Act. We accordingly find at the next session of the legislature of

Massachusetts, which began on the last Wednesday of May, 1766, nearly the same temper prevailing which had hitherto marked their proceedings. The controversy did not commence here with the Stamp Act and was not likely to terminate with it. A system had been adopted, and parties were marshalled for and against that system. The dispute had been conducted upon principles so general, it had extended itself over so wide a surface, and the feelings it had awoken had become so habitual, that harmony could not be restored by the abandonment of a single measure, however interesting that for the time had been. The House made choice of James Otis as their speaker, and the choice was negatived by the governor. In the election of councillors, Thomas Hutchinson, A. Oliver, P. Oliver, and E. Trowbridge, who had been of the board for several years, were omitted. The governor in return negatived six of the gentlemen who had been chosen. This exclusion of the friends of government from the council gave great offence to the governor; and in his speech upon first meeting the two Houses, as well as in one delivered a few days afterwards, he animadverted upon it with great severity. ‘When,’ says he, ‘the government is attacked in form; when there is a profest intention to deprive it of its best and most able servants, whose only crime is their fidelity to the crown, I cannot be indifferent; but find myself obliged to exercise every legal and constitutional power to maintain the king’s authority against this ill-judged and ill-timed oppugnation of it.’ (p. 75.) ‘It must and will be understood that these gentlemen are turned out for their deference to acts of the British legislature.’ ‘It is impossible to give any tolerable colouring to this proceeding.’

The House, in their answers to these two speeches, very coolly observe—‘The integrity and uprightness of our intentions and conduct is such, that no “colouring” is requisite, and therefore we shall excuse ourselves from giving any.’ ‘We are wholly at a loss to conceive how a full, free, and fair election can be called “an attack upon the government in form,” “a professed intention to deprive it of its best and most able servants,” “an ill-judged and ill-timed oppugnation to the king’s authority.” We were summoned and convened here to give our free suffrages at the general election, directed to be annually made by the royal charter. We have giv-

en our suffrages according to the dictates of our consciences, and the best light of our understanding.' 'Had your Excellency thought fit to have favoured us with your sentiments and opinions of the candidates previously to the election, it could not more have arrested our attention as a breach of our privileges ; and it would surely be as proper to give intimations of this kind before, as now the business is past a remedy, for this year at least.' Again—'Had your Excellency been pleased in season to have favoured us with a list, and positive orders whom to choose, we should, on your principles, have been without excuse. But even the most abject slaves are not to be blamed for disobeying their master's will and pleasure when it is wholly unknown to them.'

But the question of most importance at the present session, was as to making compensation to the sufferers by the riots during the Stamp Act. We have seen that governor Bernard had formerly advised this measure ; and he now laid before them a letter from one of the secretaries of state conveying a recommendation of the measure from the British Parliament. In the vote of Parliament the word *recommend* had, after a long debate, been substituted for some other, which would probably have been more obnoxious. This circumstance, together with the advice of their agent in England, Mr. de Berdt, a wish not to disgust their friends in Parliament, and especially their own disapprobation of the conduct of the rioters, were probably their reasons for departing from their original determination on the subject. It was not, however, without great hesitation that the House complied with the recommendation. To the governor's communication they sent a reply, in which they express pity for the sufferers and condemned the conduct of the rioters (as they uniformly had done) ; but said that as compensation was an act not of justice but of generosity, they were unwilling to burden their constituents with the expense of it, until they had had an opportunity of consulting them ; and therefore had postponed the subject to the next session. After an ineffectual attempt to bring them to a decision at that time, the governor prorogued them. In October he convened them again for the purpose of obtaining a definite answer to the recommendation. The House then framed a bill 'for granting compensation to the sufferers, and general pardon and indemnity to the offenders, in the late times.' This bill they ordered to be

published for the consideration of the several towns, and then requested a recess. The recess was granted ; and in December following the act for pardon and compensation passed. But as if it were possible their opinions could yet be mistaken, they at the same time passed the following resolution.

‘ That this House in passing the bill for compensation &c. were influenced by a loyal and grateful regard to his majesty’s most mild and gracious recommendation ; by a deference to the opinion of the illustrious patrons of the colonies in Great Britain ; and for the sake of internal peace and order, without regard to any interpretation of his majesty’s recommendation into a requisition, precluding all debate and controversy ; and a full persuasion that the sufferers had no just claim or demand on the province ; and that this compliance ought not hereafter to be drawn into a precedent.’ p. 100.

This explanation of their motives was perfectly proper ; but their delay in coming to a decision may perhaps appear useless. It ought, therefore, to be considered that many of the members were under express instructions from their constituents to vote against the compensation ; and that at the same time the governor’s language in his communications on the subject—he constantly speaking of the vote of Parliament as a requisition and urging a compliance with it as a necessary expiation of the sins of the province—was calculated to provoke resentment. They had, however, no ground for fearing that, in England at least, they would be thought to have humbled themselves too much. On the contrary, their having annexed to the bill a pardon of the offenders, was there viewed as an instance of colonial presumption ; and upon that account the act was rejected by the king.

Two companies of artillery had been driven into the harbour of Boston by stress of weather, and were there lodged at the Castle. They had been supplied with fuel and candles by order of the governor and council ; and the money to pay for these supplies drawn from the treasury of the province. The legislature met on the last of January 1767, and the House very soon sent a message to inquire what provision had been made for these troops, and by whom. The governor in reply sent them ‘ a copy of the minutes of council, by which provision was made *in pursuance of the late act*



of *Parliament*, commonly called the Mutiny Act. This justification was somewhat worse in the eyes of the House than the offence. The following is an extract from their answer.

‘ But, may it please your Excellency, it is still more grievous to us to find your Excellency making mention of an act of *Parliament*, in pursuance of which your Excellency and the council have created this expense to the province. One great grievance with regard to the Stamp Act was, that it deprived us of the advantage of a fundamental and most essential part of the British constitution, the unalienable right of freedom from all taxation, but such as we shall voluntarily consent to and grant. While we feel a sense of the worth and importance of this right, we cannot but express concern that an act of *Parliament* should yet be in being, which appears to us to be as real a grievance as was that which so justly alarmed this continent. Your Excellency and the council, by taking this step, have unwarrantably and unconstitutionally subjected the people of this province to an expense without giving this House an opportunity of passing their judgment upon it; and have also put it out of our power, by an act of our own, to testify the same cheerfulness which this assembly has always shown in granting to his majesty, of their free accord, such aids as his majesty’s service has from time to time required.’ p. 107.

The governor in reply contends that the provision made for the troops was authorized by the act of the province, by virtue of which the barracks at the Castle had been erected: that it was no more than what would have been right, if the act of *Parliament* had not been passed; and was in pursuance of that act only so far as the act coincided with the usage of the government of the province. We shall presently have occasion to see in what manner a subsequent and more palpable attempt to enforce the Mutiny Act was met.

The Revenue Act of 1767 was the next subject of much importance, that engaged the attention of the legislature. This act was a revival of the attempt to tax America. The distinction between internal and external taxes, which was attempted to be established by the friends of America in *Parliament*, was too unsound in theory and too unimportant in practice, to be long acquiesced in by men so well acquainted with their rights as the colonists had now become. This act, however, as it imposed no internal taxes, did not at first create that sensation throughout the continent which was pro-

duced by the Stamp Act. Massachusetts was, however, from her situation, more likely than most of the colonies to be affected by an act that in the first instance affected commerce. At the next session of the legislature after the news of the passing of the act was received, the most efficient measures were adopted for making their opinion known in England, and of rousing the attention of the other colonies to the nature of the subject. On the 12th of January, the House addressed a letter of instructions to their agent in London, which contained a most elaborate and able vindication of the rights of the colonists. This letter discovers, as indeed most of these documents do, a very familiar acquaintance with the principles of government, and of those of the British constitution ; and it is one of the best written pieces in the book. The whole argument against taxing the colonies is clearly and forcibly stated ; but after what we have already said and the extracts we have given upon this subject, it is hardly worth our while to attempt giving an abridgment of it. In this letter the House likewise speak of the appropriation which it was understood was to be made of the revenue thus unconstitutionally raised. In the first place it was to furnish a support to the governor and judges, in the colonies where it should be thought necessary. It had long been a subject of apprehension with the legislature, that they should be deprived of all check upon the governor, by his being rendered independent of the people for his support. ‘ This House,’ say they, ‘ apprehends it would be grievous and of dangerous tendency, if the crown should not only appoint governors over the colonies, but allow them such stipends as it shall judge proper, at the expense of the people, and without their consent.’ And although they could not have questioned the benefits of an independent judiciary, yet they observe—‘ If the judges of England have independent livings, it must be remembered that the tenure of their commission is during good behaviour, which is a safeguard to the people.’ In the next place the revenue was to be ‘ applied by Parliament from time to time in defending and securing the colonies ;’ in other words, it was to be appropriated to the support of a standing army in the colonies. Against this the House remonstrate :—‘ As Englishmen, as well as British subjects, they have an aversion to an unnecessary standing army, which they look upon as dangerous to their civil liber-

ties ; and considering the examples of ancient times, it seems a little surprizing that a mother state should trust large bodies of mercenary troops in her colonies, at so great a distance from her, lest in process of time, when the spirits of the people shall be depressed by the military power, another Cæsar should arise and usurp the authority of his master.' p. 130.

The House likewise sent letters, signed by their speaker, addressed to the secretaries of state, to the Marquis of Rockingham, the lords Camden and Chatham, and the lords commissioners of the treasury, which contained a similar statement of their rights and grievances ; and solicited the assistance of these officers and noblemen in procuring them relief. These, together with a petition to the king, were the means adopted by the legislature for making their complaints known in England. At home they attempted to revive their plan adopted with regard to the Stamp Act, that of producing a union and cooperation of the colonies. Letters were sent in the name of the House to the several Houses of Representatives and Burgesses on the continent—informing them of the petition, instructions, and letters abovementioned, and recapitulating the grounds therein taken—‘ These,’ they say, ‘ are the sentiments and proceedings of this House ;’ and conclude—‘ The House is fully satisfied, that your Assembly is too generous and liberal in sentiment to believe that this letter proceeds from an ambition of taking the lead, or dictating to the other assemblies. They freely submit their opinions to the judgment of others ; and shall take it kind in your House to point out to them any thing further that may be thought necessary.’ p. 136.

This third attempt of Massachusetts to unite the colonies in opposition to an act of Parliament excited the strongest indignation of the ministry. Instructions were sent to Governor Bernard, to require that the House should, under penalty of dissolution, rescind their vote, in consequence of which the circular had been prepared and sent. This requisition was communicated to the new legislature, which met on the last of May 1768. The House in their reply, after justifying entirely the spirit and language of the circular, observe, that the vote has already been executed, as the letters have been sent and many of them answered, and cannot be rescinded ; ‘ but if, as most probable, by the word rescinding

be intended a passing a vote of this House, in direct and express disapprobation of the measure abovementioned, as “illegal, inflammatory, and tending to promote unjustifiable combination against his majesty’s peace, crown, and dignity,” we must take the liberty to testify and publickly to declare, that we take it to be the native, inherent, and indefeasible right of the subject, jointly or severally, to petition the king for a redress of grievances ; provided always that the same be done in a decent, dutiful, and constitutional way, without tumult, disorder, or confusion.’ They conclude as follows :

‘ We take this opportunity faithfully to represent to your Excellency, that the new revenue acts and measures, are not only disagreeable to, but in every view are deemed an insupportable burthen and grievance, with a very few exceptions, by all the freeholders and other inhabitants of this jurisdiction. And we beg leave, once for all, to assure your Excellency, that those of this opinion are of no “party or expiring faction.” They have at all times been ready to devote their time and fortunes to his majesty’s service. Of loyalty, this majority could as reasonably boast as any who may happen to enjoy your Excellency’s smiles. Their reputation, rank, and fortune are at least equal to those who may have sometimes been considered as the only friends to good government ; while some of the best blood in the colony, even in the two Houses of Assembly, lawfully convened, and duly acting, have been openly charged with the unpardonable crime of oppugnation against the royal authority. We have now only to inform your Excellency that this House have voted not to rescind, as required, the resolution of the last House ; and that on a division on the question, there were ninety-two nays, and seventeen yeas. In all this we have been actuated by a conscientious, and finally, a clear and determined sense of duty to God, to our king, our country, and our latest posterity ; and we most ardently wish and humbly pray, that in your future conduct, your Excellency may be influenced by the same principles.’ p. 150.

On the day this message was sent, the governor prorogued the Assembly ; and on the day following, dissolved it by proclamation. This was just after the election, and the province was thus left without a legislature for the whole political year.

Opposition was not likely to be checked by such a measure ; on the contrary, it went on not the less systematically, and probably with more spirit, for this arbitrary dissolution of

the Assembly. We are obliged, however, to pass over many interesting incidents, and proceed to the time when another Assembly convened, which was on the last Wednesday of May 1769. Governments and communities have suffered as much from false pride, as individuals. Those who guided the destinies of Great Britain at that time might easily have seen, that the opposition in America had been conducted entirely upon principle; that it was guided by men whose characters were staked on their consistency and perseverance, and men to whom character must necessarily be dearer than life and all its possessions. Such an opposition, it ought to have been known, was not to be subdued by the same measures that would have been adopted to quell the fury of a London mob. Yet it is difficult to say what other alternative was offered the government, than a resort to force or a relinquishment of a good deal of what they firmly believed to be their legitimate authority. It is not very surprising, however unwise it undoubtedly was, that the former part of the alternative was preferred. In the latter part of 1768 and the beginning of 1769, troops had from time to time been arriving in Boston, which was uniformly considered the head quarters of rebellion and disaffection. As if to render this measure still more galling to the feelings of a proud and jealous people, part of these troops, instead of being stationed at the Castle in the harbour, were brought up to the town and quartered in State (then King's) street, where the building was situated, in which the meetings of the legislature were held. When the new assembly met, they found these troops with cannon pointed towards the door of the Court House, and occupying one of the public offices in the building as a guard room. The meaning of all this was not to be misunderstood; and the first thing the House did was to send a message to the governor, remonstrating, in the most resolute terms, against these circumstances, as an infraction of the rights of the people, and as utterly inconsistent with their dignity, and the freedom with which they ought to deliberate and determine. The governor informed them, he had no authority over the troops in the town. As this was the day of general election, upon which, by charter, the counsellors for the year ensuing were to be chosen, the House proceeded to this business: after having passed a resolve, protesting that they did so only from necessity, and that their conduct was not to be drawn into a

precedent, or considered as a relinquishment of their constitutional rights. This however was all they chose to do. Several messages passed between the House and Governor; the former asserting their determination not to proceed to business whilst troops were quartered in the town where they were convened; the latter insisting upon his want of authority to withdraw the troops. Nearly three weeks of the session had elapsed, and, although the House had continued to meet daily, no business had been transacted; when the governor informed them that although he had not the power to remove the troops from Boston, yet he could adjourn the legislature to any other town; and he accordingly did adjourn them to Cambridge. This compromise rather served to heighten the indignation of the House; for, as they observe, ‘instead of the least abatement of this military parade, the General Assembly has been made to give way to an armed force, as the only means in the power of the governor to remove the difficulty justly complained of.’ What made the whole transaction still more insulting was, that on the very night after the adjournment, the cannon were withdrawn from the neighbourhood of the Court House. But however the House resented this removal, they now found themselves at liberty to proceed to business, consistently with their determination at the beginning of the session; and owing to the early dissolution of the Assembly of the last year, the business was so much in arrears as to render farther neglect extremely inconvenient. In their attention to the internal affairs of the province, it may well be presumed, they did not entirely overlook the more interesting subjects connected with the dispute with the mother country. On the 27th of June, the House voted a petition to the King, for the removal of Sir Francis Bernard from the government of the province. On the day following, the governor, by a message, which contained no reference to the above-mentioned petition, informed the House that the King had required him to repair to England, for the purpose of laying before him the state of the province. But as he was to attend the King as Governor of the province, he informed them there was the same necessity for a grant of the usual salary, as heretofore; and desired that according to the 49th instruction of his Majesty, such grant might precede the other business of the session. The House thought proper to put a different construction on the 49th instruction of his Majesty; and

could see no reason for making such grant. The House likewise entered into several warm resolutions, ‘enlarging,’ to use the words of Chief Justice Marshall, ‘the catalogue of grievances, and expressed in terms of infinitely greater exasperation, than had heretofore appeared in the official acts of any legislature on the continent.’ On the 6th of July, the governor communicated a statement of the expenditures incurred by quartering the royal troops in Boston, with a request from General Gage, that funds might be provided for discharging the same, agreeably to the provisions of the Mutiny Act. The House had frequently found means of misunderstanding the royal instructions; the Stamp Act had been evaded by a total disuse of the stamped paper: but there was now no room for misunderstanding or evasion; the terms of the Mutiny Act were too explicit; and it was now to be decided whether they would openly and avowedly refuse compliance with an act of Parliament, or by one vote give up their darling principle respecting taxation, and at the same time make provision for the very troops, who had been sent over to awe and even to coerce them into a relinquishment of their rights. It could hardly be doubted which side of the alternative they would embrace. After a most indignant denunciation of the act in question, concerning which they observe that ‘of all the new regulations, the Stamp Act not excepted, this is the most excessively unreasonable,’ they conclude:

‘Your Excellency must, therefore, excuse us, in this express declaration, that as we cannot, consistently with our honour, or interest, and much less with the duty we owe our constituents, so we shall never make provision for the purposes in your several messages mentioned.’ p. 187.

Thus ended the attempt to enforce the Mutiny Act in Massachusetts. Upon receiving the decision of the House, the governor prorogued them; upon which occasion he delivered his last speech to them, and takes his final leave in the following words, referring to their late decision.

‘To his Majesty, therefore, and if he pleases, to his Parliament, must be referred your invasion of the rights of the imperial sovereignty. By your own acts you will be judged. You need not be apprehensive of any misrepresentations, as it is not in the power of your enemies, if you have any, to add to your publications; they are plain and explicit, and need no comment.

‘It is my duty, and I shall do it with regret, to transmit to the king, true copies of your proceedings; and that his Majesty may have an opportunity to signify his pleasure thereon, before you meet again, I think it necessary to prorogue this General Court immediately, to the usual time for the winter session.’ p. 188.

Upon the departure of Sir Francis Bernard, the government devolved upon Lieutenant Governor Hutchinson, a man in every respect better qualified for it. The fashion has come down to us from the last generation of speaking of Hutchinson only with reproach; even his merit as a writer and historian seems not to be fully allowed, and we can account for it upon no other grounds than that we are still insensibly influenced, by the odium we have been accustomed to hear attached to his political conduct. That great faults may justly be charged upon him, we have no doubt; his grasping, selfish ambition, his inordinate lust of office and of personal and family aggrandizement, we shall neither attempt to palliate nor deny. Yet, on the other hand, we say without hesitation, he was in point of abilities one of the foremost men whom New England or this country has produced. A native of the province and educated here, he was attached to its institutions and habits, and had a minute acquaintance with its history and internal concerns. Whilst a member of the House of Representatives, he had in a time of peculiar embarrassment been of the greatest service to the province, and acquired an extensive influence; as Chief Justice he was upright, impartial and popular; but when, as Lieut. Governor and as Governor, he lent the aid of his great abilities to the cause of the ministry, his popularity and influence were lost and his name was execrated. Had Hutchinson been more fortunate, perhaps we should say more disinterested, in his choice of sides in politics, we know of but few names in our history, which would at the present day have been pronounced with greater veneration. But at the time the disputes commenced with the mother country and the parties were formed upon the subject of those disputes, Hutchinson was already a man of distinction, in favour with the ministry, and justly calculating upon higher preferment from them. Therefore, although he seems at first not to have approved the ministerial plan of taxing the colonies, yet when the dispute came to be one about the extent of royal prerogative and of the power of parliament, his habits



and what he probably considered his interest, naturally drew him to the side of the crown, and his talents placed him at the head of the royal party.

Governor Bernard had prorogued the General Court to the 10th of January 1770. In consequence, however, of instructions, the Lieut. Governor had farther prorogued them to the 15th of March following, then to meet at Cambridge instead of Boston, which latter place had been the seat of government from the first settlement of the province. The inhabitants of Boston had rendered themselves peculiarly obnoxious to the friends of arbitrary government; and it was supposed (although in fact there was no difference between the sentiments of the town and country) the spirit which prevailed amongst them had an influence on the legislature and encouraged the latter in their opposition. In order to escape this contaminating influence of the metropolis, the royal or ministerial sagacity devised the plan of removing the legislature to the college chapel, in Cambridge, a distance of nearly three miles, and where at the time there was so small a settlement that most of the members were obliged to board in Boston. The House had no sooner met than they sent a remonstrance to the Lieut. Governor against the reason assigned by him, as the only one he had for proroguing the Assembly, viz. ‘that he had received instructions to meet the said assembly at Cambridge;’ which the House pronounce ‘an infraction of their essential rights, as men and citizens, as well as those derived to them by the British constitution, and the charter of the colony;’ and therefore desired him to remove the legislature to its ancient place, the court house in Boston. This request the Lieut. Governor of course refused, and expressed his hope that a compliance would not be expected from him, ‘because,’ he observes, ‘I never shall take exception to the exercise of any powers which are constitutionally in the House, although such powers should be exercised in consequence of *instructions* given to the members of the House by their constituents.’ Several messages were exchanged on the subject, and after more than a week of the session had been thus consumed, the House determined to proceed to business, after having resolved, that their so doing was not to be considered, at any time hereafter as a renunciation of their

claim to the legal right of sitting in General Assembly at the ancient place, the court house in Boston.

On the 7th of April the Lieut. Governor communicated an account of a riot which had taken place in the town of Gloucester, to the end, 'that if any act or order of the whole legislature should be judged necessary for strengthening or encouraging the executive powers of government, there might be an opportunity for it.' We give the following extract from the answer of the House, as presenting their opinions and feelings respecting the state of the province at the time.

'We shall not enlarge on the multiplied outrages committed by this unlawful assembly [*the military*] in frequently assaulting his Majesty's peaceable and loyal subjects; in beating and wounding the magistrate, when in the execution of his office; in rescuing prisoners out of the hands of justice; and finally, in perpetrating the most horrid slaughter of a number of inhabitants,\* but a few days before the sitting of this assembly, which your Honor must undoubtedly have heard of. But not the least notice of these outrageous offences has been taken; nor can we find the most distant hint of the late inhuman and barbarous action, either in your speech at the opening of the session, or even in this message to both Houses. The violences so frequently committed, added to the most rigorous and oppressive prosecutions, carried on by the crown against the subjects, grounded upon unconstitutional acts, and in the Court of Admiralty, uncontrolled by the Courts of Common Law, have been justly alarming to the people. The disorder, which your Honor so earnestly recommends to the consideration of the Assembly, very probably took its rise from such provocations. The use, therefore, which we shall make of the information in your message, shall be to inquire into the grounds of the people's uneasiness, and to seek a radical redress of their grievances." p. 205.

The next assembly met on the last Wednesday of May, and chose their counsellors; and after exchanging several messages with the governor on the subject of the removal of the court from Boston, they came to a resolution that it was inexpedient to proceed to business, whilst they were thus constrained to hold their sessions in any other than the ancient and accustomed place. The session continued until the 25th of June, during which time no business was done or vote passed, excepting such as related to this dispute about the

\* 'Boston Massacre,' so called, March 5, 1770.

place of meeting, when the Lieut. Governor, seeing no prospect of their receding from their resolution, prorogued them to the 25th of July. At that time they again met at Cambridge; when the controversy was renewed, and continued until the 3d of August, at which time, as the House still continued to decline all business, the Governor once more prorogued them to the 20th of September. This dispute was conducted with great zeal and ingenuity by both sides. The papers relating to it occupy a considerable space in this volume; but we think they were properly inserted, both as showing the spirit and feelings of the time, and as they contain a great deal of incidental discussion of principles which were then of great importance. The Lieut. Governor insisted upon his right of calling the assembly together at any place he saw fit; and if he chose to call them together at a place pointed out to him by the royal instructions, the House had no right to object. The House contended, that by the form of the writ for convening the assembly, as given in an act of 10 W. 3, and which contained the words ‘the court house in Boston,’ the seat of government was by law fixed in that town; and that the Governor, by his conduct, gave to instructions a greater force than to law. This led to much acute argument respecting the construction of the act of W. 3; the force of royal instructions; the nature and extent of the prerogative, &c. which we have not time to recapitulate, but which will well repay a perusal. What gave to this dispute its great interest was, that the House viewed the removal as one measure of a system of worrying or coercing them into a compliance with demands, which they were determined to resist.

In September the Assembly again convened. They found, by communications from England, that the conduct and situation of the province was likely to be submitted to the consideration of Parliament at the approaching session; and they had every reason to apprehend that the inquiry would result in some diminution of their chartered privileges. It was highly important therefore that they should prepare instructions to their agent. Another step too had lately been taken in the advances of the British government, in the dismissal of the provincial troops from Castle William, and garrisoning the fortress with a detachment of the royal army. Massachusetts saw herself, in short, exposed to a systematic

attempt to reduce her to the lowest state of dependence ; and what rendered her forebodings still more gloomy was, that in the Middle and Southern colonies the irritation against the mother country seemed, at this time, to have in a great degree subsided. Besides all which, owing to the repeated prorogations and dissolutions of the assembly during the two last years, and their own refusal to attend to business, the internal business of the province had accumulated to such a degree, that the consideration of it could be no longer postponed without the greatest inconvenience. The House, therefore, after another ineffectual attempt to obtain a removal of the seat of government to Boston, found themselves under the necessity of proceeding to business, which they did, having first publicly assigned their reasons for so doing and protested against their conduct being drawn into a precedent. The Lieut. Governor was, by law, the commander in chief of Castle William ; and the House warmly remonstrated against his conduct in delivering the keys of the fortress to the commander of the regular troops, and accused him of having parted with his command. The Governor replied, and a controversy of some length ensued ; but remonstrance and argument were the only weapons the House could then use, and these, whatever effect they might have had in preparing the minds of the people for more efficient measures, were not likely to produce an immediate redress of the grievance. Another controversy arose at the present session between the Lieut. Governor and the House in consequence of the instruction from the king, that in passing of all laws, the style of enacting should be—‘ by the Governor, Council and House of Representatives,’—omitting the words ‘ in General Court assembled,’ which words had formerly made part of the style of enacting, but for the last thirty years had been disused and were now sought to be restored. This, although merely a matter of form, was another foolish attempt to interfere with the proceedings of a jealous legislature, and was highly resented by them. The session was protracted for nearly two months, the greater part of which time, if one were to conjecture from the number of papers in this volume, might be supposed to have been consumed in exchanging messages with the Lieut. Governor. It seems, however, from an observation of Hutchinson, in his speech at the close of the session, that more business had been

transacted than he remembered to have been done in the same space of time, since he had been engaged in public affairs.

Hutchinson was shortly after appointed governor. We have already given enough of the contents of this book, to present our reader with an idea of the constancy and inflexibility, and at the same time the regard to principle, with which the legislature maintained their rights through the long controversy which led to the war of the revolution. This alone, we repeat, and not to write a history of Massachusetts, has been our object. Our account of the remaining portion of the volume will therefore be very brief. The subject of the removal of the Assembly from Boston still continued to afford matter of controversy. The House, at the commencement of every session, constantly remonstrated against it. On the 8th of April 1772, the governor informed them he was authorized to remove them to Boston, provided they requested it as matter of convenience only, and desisted from the claim as matter of right. With this condition the House did not choose to comply. At the ensuing session in May, the House sent a message couched in guarded language, complaining of the holding of the court at Cambridge, as a grievance, but neither expressly denying the legality of the measure, nor yet saying any thing, from which it could be inferred that they had renounced their opinions formerly expressed. The governor, not content with this, requested an explanation of some expressions in their message. The House thought any explanation unnecessary, and the removal was denied. About a fortnight afterwards the governor saw fit of his own accord to restore the government to its ancient seat. The plan which had been so long apprehended of making the governor independent of the province, as to his salary, was in 1772 carried into effect; and shortly after the same measure was adopted with regard to the judges. It is hardly necessary for us to say, that these measures did not pass without being remonstrated against by the House, and defended by the governor.

There seems to us something in Hutchinson's manner of conducting his controversies with the legislature, which must rather have had a tendency to forward the revolution; though at the time it was no doubt viewed in a very different light. He was intimately acquainted with the history and constitution of the province; he was cool, circumspect, and acute,

and apparently fond of victory in the argument. He was always careful to keep the theory of the constitution in view, which was founded on the idea that the colonies were dependent states, subordinate parts of the British Empire. The colonies had not only acknowledged, but had boasted of their connexion with Great Britain; they had never denied their dependence on the mother country, though the nature and extent of that dependence had never been accurately defined. Now it is scarcely to be denied, that the legislature of Massachusetts frequently asserted principles, which, if thoroughly examined, would have been found inconsistent with dependence of any sort. This was never overlooked by Hutchinson; he was not a man to stop short in his argument: he was not for confining the discussion to the individual case from which it arose, but was for tracing the principle through all its consequences: above all he was ever careful to keep in view the difference in the question, whether the power or right existed, and the one, whether it had been judiciously exercised in the particular case. Thus the House were kept constantly exercised in a discussion of the fundamental principles of their constitution. If from these principles could be drawn a justification of the measures of which they were complaining; we may easily suppose that, instead of being reconciled to their grievances, the people would be merely led to question the excellencies of a constitution, which exposed them to such grievances, and to inquire into their obligation longer to submit to it.

Thus, in the argument about the force of the *royal instructions*, which arose in consequence of the removal of the Assembly from Boston, whilst the House distinguished between prerogative and the abuse of prerogative, and asserted that it was gross abuse to remove the General Court from its ordinary seat of legislation, for the purpose of wearying them into a subserviency to the views of the crown, they undoubtedly had the better of the argument. But when they insisted, 'that by the royal grant in the charter, the governor, who was but the representative, the deputy of the king, has the sole power of adjourning, proroguing, and dissolving the General Court,' and thence inferred that the king had divested himself of the power of judging upon the subject; when, too, they declared that the governor was under no obligation to hold the court at Cambridge, let his instructions be ever

so peremptory, 'inasmuch as it was inconvenient and injurious to the province,' 'and prerogative extends to do no injury,' Hutchinson, in our opinion, very conclusively answered, 'what pretence can there be to distinguish this from any other power, or what exercise of power can there be, pursuant to the charter, by force of an instruction, if this is not? If it be said, that in other instances also of power given to the governor to use, according to his discretion, the king has parted with his prerogative, *the reserve made by the crown*, to give instructions to the governor, can, in no case whatever, have any effect.' (p. 318) 'If it be intended, that when the governor, by his Majesty's order, convenes the Assembly at a time or place, which appears to them inconvenient or improper, they have, therefore, a right to refuse to appear, or refuse to proceed to business, or that they have a right to continue to sit after the governor has prorogued or dissolved the Assembly, in their judgment unreasonably or unnecessarily, will not this imply a contradiction? Is it not allowing a full power to do a thing, and at the same time admitting a power to defeat it, and prevent the full power from having any effect?' (p. 319.)

And so in the question about the salary of the governor and judges; men so intimately acquainted with the science of government, as were those, by whom these disputes were conducted on the behalf of the people, could not have been blind to the salutary effects of an independent executive and judiciary. And these very men, or many of them, when they assembled seven years afterwards, to form a constitution for the commonwealth of Massachusetts, when they came to make provision for a governor, who was to be chosen by the people, and for judges who were to be appointed by a popular executive, took care to make it a clause of the constitution, that '*permanent and honourable salaries*' for those officers should be established '*by standing laws.*' Yet at the period of which we are writing, they contended for the propriety of keeping both the executive and judicial branches of the government dependent on the annual grants of the legislative. The legislature was chosen by the people, the governor and judges were appointed by the crown; and they thought it better to risk the operation of a bad principle in politics, rather than incur the greater evil of increasing their dependence on Great Britain. And they were right in this opinion.

But then in their argument they talked about a government of checks and balances, and of the necessity of one branch being a check upon the other ; and Hutchinson told them : ‘ The mutual check, which one branch of the legislature ought to have upon the other, consists in the necessity of a concurrence of all the branches, in order to a valid act, and when any one branch withholds this concurrence, it is properly a check upon the other two. So far as this may be said to be a dependence, I agree with you, but this is not sufficient for your purpose, for the same check will remain in each branch when the salary of the governor is paid by the crown, as when it is paid by the province. Now this check does not affect that freedom and independence in each branch which is the glory of the English constitution, and which will not admit that any one should be compelled by the others to any act against its judgment.’ (p. 334) And after a full illustration of these ideas, he observes :

‘ I am sensible that when all other exceptions to this representation of your constitution are taken away, you will ask what security have we against the oppression of a governor ? The answer is obvious. The law and the constitution are your security ; if he depart from them, there is a power superior to him, to which he is accountable for his mal-administration. This is all the redress which can consist with the nature of a subordinate government.’ p. 335.

And it ‘ is all the redress which can consist with the nature of a subordinate government.’ No doubt, arguments like the above had their secret and silent effect ; but it was not the effect which Hutchinson calculated upon. To convince men, situated as the Americans then were, and animated by their spirit, that such was the only constitutional mode of redress, was not the way to induce them to sit down quietly under their evils. Oppressed from some quarter they knew themselves to be ; the mode of redress pointed out, they had tried till their patience was exhausted, but had found no relief ; they had appealed to ‘ superior power,’ they had insisted on ‘ the constitution and the law,’ but their appeals and their arguments had been treated with contumely, or made the pretext for new aggression. The only effect then of such arguments must have been to lead men to inquire, if there were not something in the nature of a subordinate government, to which the feelings of freemen could not and ought not to be recon-



ciled, and something in 'the law and the constitution' radically defective.

Hutchinson's disposition to push the House up to a full avowal or renunciation of their principles led him into a dispute upon another subject of still more importance, and the result of which ought to have convinced him of the impolicy of courting, under existing circumstances, too minute an investigation of the fundamental principles of the constitution. 'The degree of authority,' says Chief Justice Marshall, 'which might rightfully be exercised by the mother country over her colonies had never been accurately defined. In Britain it had always been asserted, that Parliament possessed the power of binding them in all cases whatsoever. In America, at different times and in different colonies, various opinions had been entertained on this subject.' In New England, during the earlier periods of its history, it had been a prevailing and favourite opinion, that the Americans were subjects of the British crown, but not of the nation. When the colonies became of sufficient importance to attract the notice of the parent state, it was found impracticable effectually to maintain this position; and it seems to have been silently and gradually abandoned. Still, however, public opinion on this subject was extremely loose and unsettled; and although it seems to have been generally supposed that Parliament possessed some sort of power over the colonies, yet the attempt to exercise it in any particular case was generally viewed with great jealousy. In practice, the operation of acts of Parliament had sometimes been acquiesced in; sometimes the legislature of Massachusetts had by their own acts adopted those acts, by which the appearance of their being enforced by the mere power of Parliament was saved; more frequently such laws as were not agreeable had been evaded or misunderstood; whilst all such as related to taxation had uniformly been pronounced unconstitutional, and in the case of the Mutiny Act, as we have seen, obedience had been flatly refused. In their addresses they had frequently spoken incidentally of the Parliament as 'the supreme legislative power over the whole empire,' of 'the *superintending power* of that high court over all his Majesty's subjects in the empire,' &c. taking care at the same time to add, that the exercise of the supreme legislative power was always to be limited and controlled by the constitution; and likewise

to insist upon the impracticability of the colonists being represented in Parliament ; in consequence of which impracticability, they had been allowed legislatures, which were to be ‘ as perfectly free as could consist with a subordination to the supreme legislative of the whole empire.’ But how much freedom this would have left them ; or what were the precise boundaries of the powers of the colonial assemblies, and of the supreme legislature, no one had undertaken to point out. Indeed this seems hitherto to have been viewed by the defenders of American rights as a forbidden subject. But the controversy had now continued so long in Massachusetts, and all reserve and delicacy had been found so ineffectual, that the minds of the people were pretty well prepared for a contemplation of the whole subject. The supremacy of Parliament, it seems, had lately been denied by a town meeting in Boston, and Hutchinson saw fit to avail himself of this circumstance, to meet the legislature at the next session, which was in January 1773, with an elaborate and formal argument upon the subject. This was in a manner challenging the Assembly to an expression of their opinion upon this delicate question. The two Houses returned separate answers, differing very much in their general tone. The council preserved the old ground, declining to prescribe the precise limits of the power of Parliament, but maintaining that it must necessarily be limited by the principles of the constitution, and by those principles it could not extend to the levying of taxes upon those who did not enjoy the right of representation. But not so with the House : they boldly meet the governor in all his positions, and, after a most full and able discussion of the subject, observe :

‘ Your Excellency tells us “ you know of no line that can be drawn between the supreme authority of Parliament and the total independence of the colonies.” If there be no such line, the consequence is, either that the colonies are the vassals of the Parliament, or that they are totally independent. As it cannot be supposed to have been the intention of the parties in the compact, that we should be reduced to a state of vassalage, the conclusion is, that we were thus independent. “ It is impossible,” your Excellency says, “ that there should be two independent legislatures in one and the same state.” May we not then further conclude, that it was their sense, that the colonies were, by their charters, made distinct states from the mother country ?

Your Excellency adds, “for although there may be but one head, the king, yet the two legislative bodies will make two governments as distinct as the kingdoms of England and Scotland before the union.” Very true, may it please your Excellency; and if they interfere not with each other, what hinders, but that being united in one head and common sovereign, they may live happily in that connexion, and mutually support and protect each other?” p. 36.

This, we believe, was the most full and explicit denial of the power of Parliament which had then been made by any legislature on the continent. The governor, who probably had not anticipated that the House would have assumed this bold ground, felt obliged to send another message in support of his positions, which called forth a long answer from the House, breathing the same spirit and principles with the first. These four messages, which occupy about fifty pages of this volume, do infinite honor to both parties, by the learning, the ingenuity, and dignity, with which they are written. Those on the behalf of the House we have good authority for attributing to that venerable statesman in our vicinity, who yet lives to witness the successful operation of those principles, which, in his more active days, he did so much to establish and defend.

Having followed the House of Representatives to this declaration, it occurs to us—what our readers no doubt have long been thinking of—that it is time for us to stop. Something we had intended to say of the remaining documents in this volume and of the subjects they relate to—of the establishment of the state committees of correspondence—of the famous letters of Hutchinson and Oliver—of Gage’s insolent conduct in meeting the legislature—of the removal of the legislature to Salem, in pursuance of the Boston Port Bill—of the final dissolution of the provincial legislature, and of the address of the Massachusetts Congress to the people, with which the volume closes. But we find it impossible to resist the temptation of making extracts, or to avoid historical statements with which our readers are or ought to be already acquainted.

We conclude by earnestly recommending this book to our readers’ attention. We are the more urgent on this point, because we have just been astonished and mortified by seeing the publishers of it announcing in a newspaper conducted by them, that they have sustained a loss by the publication, of

between seven and eight hundred dollars. We feel no other interest in the success of these publishers, than we do in that of every man who undertakes to furnish the public with good books. But if we could believe that the fact, above stated, was at all indicative of the general spirit of literary patronage amongst us, it would afford us much more mortification than all the sneers and the abuse of the state of our literature, which the most industrious compiler could bring together from the whole circle of English travellers and reviewers. It would be in vain to say that Americans ought to make books; it would be in vain to say that the documents respecting our history ought to be collected and preserved, if many such facts were permitted to disgrace us. But we know that this is not the case; and we can account for this instance of unmerited neglect only by the presumption that the nature of the book has not been generally understood. One suspicion may perhaps be excited upon reading these papers, which may not be altogether gratifying to our vanity; it is that the advances of the present generation in knowledge and letters have not been quite so large as we are apt to imagine. We find in this volume not only the marks of a bold spirit and of strong natural talent, but of the most extensive reading, and specimens of pure and elegant composition. Indeed we are not absolutely certain that from the journals of Congress, for the last ten years, could be selected a volume containing so much fine writing. But whether it be owing to the style or the subjects of these papers, or to both, we are persuaded that no man who ever derives pleasure from books, will be able to read a few of them without going through with the whole, and then wishing that there were more.

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**ART. XVI.**—*Memoirs of Richard Lovell Edgeworth, begun by himself and concluded by his daughter Maria Edgeworth.*  
London, 2 vols. 8vo. 1820.

THE ordinary and easiest kind of biography contents itself with relating the principal incidents of a life, with the more peculiar circumstances which accompany them; sometimes venturing to guess at the motives of the man when they happen to lie pretty near the surface, and now and then pre-